

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 16-1192V

Filed: August 31, 2021

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MEGAN C. MCFADDEN,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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UNPUBLISHED

Ruling on Entitlement; Influenza
("flu") Vaccine; Shoulder Injury
Related to Vaccine Administration
("SIRVA").

Alexander Laufer, Esq., Eisenhower and Laufer, PC, Fairfax, VA, for petitioner.
Mark Hellie, Esq., U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Roth, Special Master:

On September 23, 2016, Megan C. McFadden ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program ("the Program").² Petitioner alleges that she received an influenza ("flu") vaccination on September 28, 2013, and

¹ Although this Decision has been formally designated "unpublished," it will nevertheless be posted on the Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). **This means the Decision will be available to anyone with access to the internet.** However, the parties may object to the Decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public. *Id.*

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

thereafter suffered from a Shoulder Injury Related to Vaccination Administration (“SIRVA”). *See* Petition at 1.

Following an onset hearing, this Court issued a Ruling on Onset, finding that petitioner’s shoulder pain began within 24 hours of her vaccination. *See* Ruling on Onset, ECF No. 60. Thereafter, respondent filed an Amended Rule 4(c) Report advising that respondent will not defend the matter. Resp. Am. Rep. at 1, ECF No. 68. Specifically, “[r]ecognizing that the Special Master’s factual finding that onset of symptoms took place within 24 hours...respondent submits that petitioner has otherwise satisfied the criteria set forth in the Vaccine Injury Table and the Qualification and Aids to Interpretation for SIRVA. *See* 42 C.F.R. §§ 100.3(a)(XIV) and (c)(10).” *Id.* at 2.

A special master may determine whether a petitioner is entitled to compensation based upon the record. An entitlement hearing is not required. §300aa-13; Vaccine Rule 8(d). In light of respondent’s position not to defend the case and a review of the record, the undersigned finds that petitioner is entitled to compensation. This matter is now in the damages phase.

IT IS SO ORDERED.

s/Mindy Michaels Roth
Mindy Michaels Roth
Special Master